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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,267	06/27/2001	Shuji Shimizu	SON-2147	1629

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EXAMINER

VIEAUX, GARY

ART UNIT PAPER NUMBER

2622

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/891,267

Applicant(s)

SHIMIZU, SHUJI

Examiner

Gary C. Vieaux

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the Non-Final Office Action dated January 5, 2006, independent
5 claim 1 has been amended.

Response to Arguments

Applicant's arguments filed April 3, 2006 have been fully considered but they are
not persuasive.

10 Claim 1, as well as claims 2 through 13 via dependency, was rejected under 35
U.S.C. 112, first paragraph, as failing to comply with the written description requirement
because it claimed conflicting limitations that were mutually exclusive to two separate
embodiments.

Applicant's amended language cures the failings regarding the range of
15 photographing direction, θb . However, Applicant also contends that the amended
language of claim 1, "wherein the camera support means are located on an end of the
electronic camera", generally corresponds to the embodiments in the in that either only
one end, or first and second ends may be encompassed by the claimed invention
(Remarks, p. 7.) The Examiner respectfully disagrees.

20 The first embodiment within the specification (Figs. 2 and 3) provides for camera
support means comprising two hinges (Figs. 2 and 3, indicators 16), located on
opposing ends of an image pickup unit (\S 22, lines 7-8) and having an indicated rotation

angle of 180 degrees (Fig. 3.) The second embodiment within the specification (Figs. 7-9) provides for camera support means comprising one hinge (Figs. 7 and 8, indicator 88), located on the end of a camera top part, between a fixed part and a rotating part (¶51), and having an indicated rotation angle greater than 180 degrees (Fig. 9; ¶52.)

5 After review of the plain language of the claim, and in light of the specification, ambiguity still exists between which of two distinct embodiments are attempting to be claimed. The language employed in amended claim 1 includes conflicting singular and plural tenses, with “the camera support means *are* located...”, employing a verb tense which indicates more than one camera support means in use, and “... located on *an*
10 end of the electronic camera”, employing an article which indicates that only one distinct end is utilized in conjunction with camera support means (Emphasis added.) Examples of unambiguous language acceptable to the Examiner would be “wherein the camera support means are located on the ends of the electronic camera”, and indicating a claim directed to the first embodiment, or “wherein the camera support means is located on
15 the end of the electronic camera”, and indicating a claim directed to the second embodiment.

 However, based on the foregoing response regarding claim language that continues to create uncertainty between mutually exclusive embodiments, the Examiner respectfully maintains the 35 U.S.C. §112, first paragraph, rejection to claim 1-13.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

5 The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to
comply with the written description requirement. The claim(s) contains subject matter
10 which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 provides for the amended limitation "wherein the camera support means are located on an end of the electronic camera". However, after review of the plain
15 language of the claim, taken in light of the specification, ambiguity exist between which of two distinct embodiments are attempting to be claimed. The language employed in claim 1 includes conflicting singular and plural tenses, with "the camera support means are located...", employing a verb tense which indicates more than one camera support means in use, and "located on *an* end of the electronic camera", employing an article
20 which indicates that only one distinct end is utilized in conjunction with camera support means (Emphasis added.)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

25 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 contains the limitation "about 60 degrees"; a limitation that fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation implemented, renders the claim indefinite, as the range starting with "about 60 degrees" is not defined so as to differentiate what is considered "about 60 degrees" by one of ordinary skill in the art from that which is considered "about 60 degrees" by another of ordinary skill in the art.

Claims 2-13 each depend either directly from or indirectly from independent claim 1, and thus inherit all the limitations of independent claim 1. Consequently, based on their dependence and the foregoing 35 U.S.C. 112 rejections to claim 1, claims 2-13 are also rejected under the same grounds.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Vieaux whose telephone number is 571-272-7318. The examiner can normally be reached on Monday - Friday, 8:00am - 4:00pm.

10 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen T. Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for
15 published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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TUAN HO
PRIMARY EXAMINER

Gary C. Vieaux
Examiner
Art Unit 2622

Gcv2